

REQUIREMENTS FOR NON-AMERICAN CITIZENS TO TAKE DOMESTIC EMPLOYEES TO THE UNITED STATES

An important requirement to qualify for a domestic employee visa is that the employee has no intention to immigrate. The Consul must be convinced that the domestic employee will return to his or her home country after a short period of work in the United States. Even though the employer's documents support the application for a domestic employee visa (such as the employer's visa, their work and solvency), it is the domestic employee who has the obligation to fulfill the requirements to qualify.

The employer does not need to be present at the interview with the employee, but the employee needs to show that the employer has permission (visa) to enter the United States. The applicant also needs to show that the employer has the economic solvency to pay for the trip and also the salary of the domestic employee.

The applicant (domestic employee) needs to present a contract signed and dated by both employer and employee, which includes the following points. In the United States this contract is a legal and binding document.

1. **Salary:** The employee will receive (at the least) the federal minimum wage or prevailing wage (whichever is higher) of the area in which he/she will be working. The employee will be paid for a work day of 8 hours plus benefits which include overtime, travel expenses, housing and meals. The contract must indicate exactly how much the employee will receive for normal work hours and for overtime and the expected hours of the day the employee will work.

As of **July 24, 2009**, the federal minimum wage in the United States was **\$7.25** per hour, but this figure may change in the future and some states and cities have much higher minimum wages. For the **current** minimum wage in each state go to:

<http://www.dol.gov/esa/minwage/america.htm>

Also the contract must indicate the hours of work and how much the employee will earn for overtime. Labor law in the United States requires that workers receive at least 150% of the normal salary for more than 40 hours of work per week. For example, an employee would receive \$9.83 per hour of overtime if he or she usually earns \$6.55 per hour.

2. **Exclusivity of Work:** The employee will work exclusively for the employer specified and named in the contract and whose name is annotated in the B1 visa.
3. **Travel Expenses:** The employer will provide housing, meals and the cost of a round trip ticket to the employee. These expenses will not be deducted from the employee's salary.

There is the possibility that one may have to pay taxes. We recommend that the employer consult publication number 926 of the IRS (Internal Revenue Service) and go to <http://www.irs.gov/pub/irs-pdf/p926.pdf> for more information. In short, taxes must be paid if an employer pays an employee more than \$1,500 in any calendar year.

Federal requirements for tax payments are 15.3% of the salary which is divided equally between the employer (7.65%) and employee (7.65%). The employer's portion covers Social Security (6.2%) and Medicare (1.45%). The employer should also consult state law for state tax requirements.

Example Domestic Employment Contract

Please do not fill out this example.

(City and country, Date)

A. DURATION OF CONTRACT

The terms of this contract are good for 1 year and are applicable only during trips that _____ (employee) makes with _____ (employer) to the United States.

B. SALARIES AND BENEFITS

1. SALARY:

_____ (Employee) will receive the minimum or prevailing wage of the state of _____ (or the city of _____), which is \$_____ per hour. All federal, state and local taxes that apply to the salary of _____ (employee) will be deducted from his/her salary. It is the responsibility of _____ (Employer) to pay all federal, state and local taxes that apply to the salary of the (employee) _____.

2. BENEFITS:

_____ (Employee) will receive the following benefits:

- a) Pay equivalent to 150% of the normal hourly wage for each hour worked more than 40 hours in one week,
- b) Payment of medical expenses,
- c) Insurance,
- d) Transportation,
- e) Housing and meals.

3. HOURS OF WORK

The normal work hours of the _____ (employee) will be from 9:00 a.m. a 17:00 Monday to Friday.

C. TERMINATION OF WORK

_____ (Employer) will notify the _____ (employee) at least 2 weeks before terminating the contract. It is not necessary for _____ (employee) to notify _____ (employer) more than 2 weeks before terminating the contract.

D. ONE EMPLOYER:

_____ (Employee) can work only for _____ (employer) in the United States.

E. TRANSPORTATION, ROOM AND BOARD:

_____ (Employer) will provide _____ (employee) room and board as well as round trip airline tickets to the United States from the country of residence. None of these expenses can be deducted from the salary of _____ (employee).

F. COMPREHENSION:

_____ (Employee) understands the presented contract and can answer simple questions about the work conditions and requirements.

NAME OF EMPLOYER

SIGNATURE

NAME OF EMPLOYER

SIGNATURE

NAME OF EMPLOYEE

SIGNATURE